

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

NOTICE OF PROPOSED PROPERTY FACTOR ENFORCEMENT ORDER

In terms of Section 19 of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: HOHP/PF/17/0137

Flat 4, 50, Cecil Street, Glasgow, G12 8RJ ("The property")

The Parties:-

Mrs. Patricia Grant residing at Albannach, 30 Linden Park Road, Milnathort, KY13 9XX ("the homeowner") and

James Gibb Residential Factors, having a place of business at 65, Greendyke Street, Glasgow G1 5PX ("The factor")

Tribunal Members

Karen Moore (Legal Member)

Colin Campbell (Ordinary Member)

Background

Having determined by Decision dated 9 November 2017 that the factor had failed to comply with the property factor duties in terms of Section 17 of the Act, the tribunal determined to issue a Property Factor Enforcement Order ("PFEO").

Proposed PFEO

In accordance with Section 19 (3) of the Act, having been satisfied that the Factor has failed to comply with the terms of Section 17 of the Act the tribunal determined to make a PFEO. In order to comply with Section 19(2) of the Act, the tribunal before proposing an order must give notice of the proposal to the factor and must allow the parties to give representations to the tribunal. The intimation of this document to the Parties should be taken as notice in terms of Section 19(2)(a) of the Act and the Parties are hereby given notice that should they wish to make any representations in relation to the tribunal's proposed property factor enforcement order that they must be lodged with the tribunal within 14 days of the date of this Decision. If no representations are made, the tribunal will proceed to make the order as proposed. If

representations are made, they will be considered by the tribunal prior to the making of any order.

The tribunal propose to make the following property factor enforcement order:

“No later than [a date 40 days from date of Order to allow for the appeal period], the factor must write to all of the owners of properties in the block of flats of which the property forms part to call a meeting of proprietors in terms of the title deeds to the said block with a view to seeking agreement of the owners to put a plan of preventative maintenance in place and provide a copy of the said letter to the tribunal. The factor must use all reasonable endeavours to ensure that the meeting takes place no later than [a date 60 days from date of Order] ;

No later than [a date 40 days from date of Order to allow for the appeal period], the factor must make payment of £250.00 to the homeowner in compensation for the inconvenience and stress caused to her and must make payment of £50.00 to her to represent a refund of the insurance excess paid by her in respect of the claim arising from the water damage caused in December 2016”

Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them

Karen Moore

Chairperson

9 November 2017